



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Merchant, et al.
Serial No. : 09/625,644
Filed : July 26, 2000
Title : MIDDLE-EAR IMPLANT

Art Unit : 3738
Examiner : D. Isabella

#12
(NE)

Commissioner for Patents
Washington, D.C. 20231

TERMINAL DISCLAIMER UNDER 37 CFR §§3.73(b) AND 1.321(b)

Pursuant to 37 CFR §3.73(b), MASSACHUSETTS EYE & EAR INFIRMARY, a non-profit corporation, certifies that it is the assignee of the entire right, title, and interest in the above application by virtue of an assignment from the inventors of the patent application identified above, said assignment having been recorded at the Patent and Trademark Office on Reel 010973 , Frame 0540 on July 26, 2000.

The undersigned has reviewed all the documents in the chain of title of the above-identified application and to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

Pursuant to 37 CFR §1.321(b), and to obviate a double patenting rejection, the assignee identified above hereby waives and disclaims the terminal portion of the term of the entire patent to be granted upon the above identified application subsequent to the expiration date of U.S. Patent No. 6,251,138, whereby the patent granted on this application and U.S. Patent No. 6,251,138, will expire on the same day, provided that any patent granted on the above identified application shall be enforceable only for and during such period that it is commonly owned with U.S. Patent No. 6,251,138.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

10/21/02

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Carla O'Keefe

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Applicant : Saumil N. Merchant, et al.
Serial No. : 09/625,644
Filed : July 26, 2000
Page : 2

Attorney's Docket No.: 00633-025001

The assignee identified above does not disclaim any terminal part of any patent granted on the above identified application prior to the expiration date of the full statutory term of U.S. Patent No. 6,251,138, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title as stated above. Assignee herein does not disclaim or otherwise affect any part of U.S. Patent No. 6,251,138.

This disclaimer runs with any patent granted on the above application and is binding upon the grantee, its successors or assigns.

Enclosed is a check for the required fee pursuant to 37 CFR §1.20(d).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

MASSACHUSETTS EYE & EAR INFIRMARY

Date: 10/16/02


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